

## CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 108

**Citations Affected:** IC 4-12; IC 12-10-16; IC 24.

**Synopsis:** Disposition of tobacco settlement funds. Provides that all money received by the state under the master settlement agreement shall be deposited in the fund. Establishes limitations on the expenditure of money that is deposited in the fund. Prohibits expenditure of interest on the fund unless specifically appropriated. Establishes a tobacco use prevention and cessation executive board and trust fund to provide grants to implement a long range state plan to reduce the use of tobacco and tobacco products. Provides that expenditures of state funds by state agencies or other public or private entities for programs concerning reduction of tobacco usage are subject to approval by the executive board. Establishes other funds to provide distributions for certain health care programs, biomedical technology and basic research initiatives, local health departments, assistance to low-income senior citizens in purchasing prescription drugs, and assistance to farmers in transitioning from tobacco to other commodities. Provides that certain cigarettes may not be sold or possessed in Indiana. Makes transitional amendments concerning the existing tobacco settlement fund and appropriations made by the 1999 budget for the children's health insurance program. Makes various appropriations from the Indiana tobacco master settlement agreement fund. Provides that the family and social services administration is to establish a prescription drug program implementing the recommendations from a prescription drug advisory committee.

**Effective:** Upon passage; April 1, 2000; July 1, 2000; September 1, 2000; July 1, 2001.

# CONFERENCE COMMITTEE REPORT

**MR. PRESIDENT:**

*Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 108 respectfully reports that said two committees have conferred and agreed as follows to wit:*

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Page 1, delete lines 1 through 17.
- 2 Delete page 2.
- 3 Page 3, delete lines 1 through 6.
- 4 Page 3, line 9, delete "(a) As used in this section,".
- 5 Page 3, delete lines 10 through 11.
- 6 Page 3, line 12, delete "(b)" and insert "(a)".
- 7 Page 3, delete lines 14 through 42, begin a new paragraph and
- 8 insert:
- 9 "(b) There is hereby created the **Indiana** tobacco **master**
- 10 **settlement agreement** fund for the purpose of depositing **and**
- 11 **distributing money received under the master settlement**
- 12 **agreement. The fund consists of:**
- 13 (1) **all** money received by the state ~~from~~ **under** the master
- 14 settlement agreement; ~~with the United States' tobacco product~~
- 15 ~~manufacturers;~~
- 16 (2) **appropriations made to the fund by the general assembly;**
- 17 **and**
- 18 (3) **grants, gifts, and donations intended for deposit in the**
- 19 **fund.**
- 20 (c) **Money may be expended, transferred, or distributed from**
- 21 **the fund during a state fiscal year only in amounts permitted by**
- 22 **subsections (d) through (e), and only if the expenditures, transfers,**
- 23 **or distributions are specifically authorized by another statute.**
- 24 (d) **The maximum amount of expenditures, transfers, or**

distributions that may be made from the fund during the state fiscal year beginning July 1, 2000, is determined under STEP THREE of the following formula:

**STEP ONE:** Determine the sum of money received or to be received by the state under the master settlement agreement before July 1, 2001.

**STEP TWO:** Subtract from the STEP ONE sum the amount appropriated by P.L.273-1999, SECTION 8, to the children's health insurance program from funds accruing to the state from the tobacco settlement for the state fiscal years beginning July 1, 1999, and July 1, 2000.

**STEP THREE:** Multiply the STEP TWO remainder by fifty percent (50%).

(e) The maximum amount of expenditures, transfers, or distributions that may be made from the fund during the state fiscal year beginning July 1, 2001, and each state fiscal year after that is equal to sixty percent (60%) of the amount of money received or to be received by the state under the master settlement agreement during that state fiscal year.

(f) The following amounts shall be retained in the fund and may not be expended, transferred, or otherwise distributed from the fund:

(1) All of the money that is received by the state under the master settlement agreement and remains in the fund after the expenditures, transfers, or distributions permitted under subsections (c) through (e).

(2) All interest that accrues from investment of money in the fund, unless specifically appropriated by the general assembly.

(g) The fund shall be administered by the budget agency. **Notwithstanding IC 5-13**, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as ~~other public~~ money is invested **by the public employees retirement fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the management of the fund and may pay the state expenses incurred under those contracts from the fund.** Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of the state fiscal year does not revert to the state general fund.

(h) The state general fund is not liable for payment of a shortfall in expenditures, transfers, or distributions from the Indiana tobacco master settlement agreement fund or any other fund due to a delay, reduction, or cancellation of payments scheduled to be received by the state under the master settlement agreement. If such a shortfall occurs in any state fiscal year, all expenditures, transfers, and distributions affected by the shortfall shall be reduced proportionately.

SECTION 2. IC 4-12-4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2000]:

**Chapter 4. Indiana Tobacco Use Prevention and Cessation Trust Fund**

**Sec. 1.** As used in this chapter, "executive board" refers to the Indiana tobacco use prevention and cessation executive board created by section 4 of this chapter.

**Sec. 2.** As used in this chapter, "fund" refers to the Indiana tobacco use prevention and cessation trust fund created by this chapter.

**Sec. 3.** As used in this chapter, "master settlement agreement" has the meaning set forth in IC 24-3-3-6.

**Sec. 4. (a)** The Indiana tobacco use prevention and cessation executive board is created.

**(b)** The executive board is an agency of the state.

**(c)** The executive board consists of the following:

**(1)** The following five (5) ex officio members:

**(A)** The executive director employed under section 6 of this chapter.

**(B)** The state superintendent of public instruction, or the state superintendent's designee.

**(C)** The attorney general, or the attorney general's designee.

**(D)** The commissioner of the state department of health, or the commissioner's designee.

**(E)** The secretary of the family and social services administration, or the secretary's designee.

**(2)** Eleven (11) members who are appointed by the governor and have knowledge, skill, and experience in smoking reduction and cessation programs, health care services, or preventive health care measures.

**(3)** Six (6) members who are appointed by the governor who represent the following organizations:

**(A)** The American Cancer Society.

**(B)** The American Heart Association, Indiana Affiliate.

**(C)** The American Lung Association of Indiana.

**(D)** The Indiana Hospital and Health Association.

**(E)** The Indiana State Medical Association.

**(F)** The Indiana Council of Community Mental Health Centers.

The executive director serves as a nonvoting member and all other members serve as voting members.

**(d)** During a member's term of service on the executive board, an appointed member of the executive board may not be an official or employee of the state.

**(e)** Not more than six (6) members of the executive board appointed under subsection (c)(2) may belong to the same political party.

**(f)** A member appointed under subsection (c)(2) serves a four (4) year term and shall hold over after the expiration of the member's term until the member's successor is appointed and qualified. A member appointed under subsection (c)(3) serves until the member resigns or is removed from the executive board by the

1 governor.

2 (g) The governor may reappoint an appointed member of the  
3 executive board.

4 (h) A vacancy with respect to a member appointed under  
5 subsection (c)(2) shall be filled for the balance of an unexpired  
6 term in the same manner as the original appointment. A vacancy  
7 with respect to a member appointed under subsection (c)(3) shall  
8 be filled in the same manner as the original appointment.

9 (i) The governor shall designate a member to serve as  
10 chairperson of the executive board. The executive board shall  
11 annually elect one (1) of its ex officio members as vice chairperson  
12 and may elect any other officer that the executive board desires.

13 (j) The governor may remove a member appointed under  
14 subsection (c)(2) for misfeasance, malfeasance, willful neglect of  
15 duty, or other cause after notice and a public hearing, unless the  
16 member expressly waives the notice and hearing in writing.

17 Sec. 5. (a) An appointed member of the executive board who  
18 is not a state employee is entitled to the minimum salary per diem  
19 provided by IC 4-10-11-2.1(b). Each appointed member is entitled  
20 to reimbursement for traveling expenses and other expenses  
21 actually incurred in connection with the member's duties.

22 (b) An ex officio member of the executive board is entitled to  
23 reimbursement for traveling expenses and other expenses actually  
24 incurred in connection with the member's duties.

25 Sec. 6. (a) The executive board may:

- 26 (1) employ an executive director; and  
27 (2) delegate necessary and appropriate functions and  
28 authority to the executive director.

29 (b) Subject to the approval of the executive board, the  
30 executive director may do the following:

- 31 (1) Employ staff necessary to advise and assist the executive  
32 board as required by this chapter.  
33 (2) Fix compensation of staff according to the policies  
34 currently enforced by the budget agency and the state  
35 personnel department.  
36 (3) Engage experts and consultants to assist the executive  
37 board.  
38 (4) Expend funds made available to the staff according to the  
39 policies established by the budget agency.  
40 (5) Establish policies, procedures, standards, and criteria  
41 necessary to carry out the duties of the staff of the executive  
42 board.

43 Sec. 7. (a) Eleven (11) voting members of the executive board  
44 constitute a quorum for:

- 45 (1) the transaction of business at a meeting of the executive  
46 board; or  
47 (2) the exercise of a power or function of the executive board.

48 (b) The affirmative vote of a majority of all the voting  
49 members of the executive board is necessary for the executive  
50 board to take action. A vacancy in the membership of the executive  
51 board does not impair the right of a quorum to exercise all the

rights and perform all the duties of the executive board.

(c) The executive board shall meet at least quarterly and at the call of the chairperson.

Sec. 8. (a) The executive board is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3.

(b) The executive board is a governing body for purposes of IC 5-14-1.5.

Sec. 9. In addition to any other power granted by this chapter, the executive board may:

(1) adopt an official seal and alter the seal at its pleasure;

(2) adopt rules, under IC 4-22-2, for the regulation of its affairs and the conduct of its business and prescribe policies in connection with the performance of its functions and duties;

(3) accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agree to and comply with conditions attached to that aid;

(4) make, execute, and effectuate any and all contracts, agreements, or other documents with any governmental agency or any person, corporation, limited liability company, association, partnership, or other organization or entity necessary or convenient to accomplish the purposes of this chapter, including contracts for the provision of all or any portion of the services the executive board considers necessary for the management and operations of the executive board;

(5) recommend legislation to the governor and general assembly; and

(6) do any and all acts and things necessary, proper, or convenient to carry out this article.

Sec. 10. (a) The Indiana tobacco use prevention and cessation trust fund is established. The executive board may expend money from the fund and make grants from the fund to implement the long range state plan established under this chapter. General operating and administrative expenses of the executive board are also payable from the fund.

(b) The fund consists of:

(1) amounts, if any, that another statute requires to be distributed to the fund from the Indiana tobacco master settlement agreement fund;

(2) appropriations to the fund from other sources;

(3) grants, gifts, and donations intended for deposit in the fund; and

(4) interest that accrues from money in the fund.

(c) The fund shall be administered by the executive board. Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees retirement fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals,

investment advisors, and legal counsel to assist in the management of the fund and may pay the state expenses incurred under those contracts. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) All income and assets of the executive board deposited in the fund are for the use of the executive board without appropriation.

**Sec. 11. (a) The executive board shall develop:**

(1) a mission statement concerning prevention and reduction of the usage of tobacco and tobacco products in Indiana, including:

(A) emphasis on prevention and reduction of tobacco use by minorities, pregnant women, children, and youth, including seriously and emotionally disturbed youth;

(B) encouragement of smoking cessation;

(C) production and distribution of information concerning the dangers of tobacco use and tobacco related diseases;

(D) providing research on issues related to reduction of tobacco use;

(E) enforcement of laws concerning sales of tobacco to youth and use of tobacco by youth; and

(F) other activities that the executive board considers necessary and appropriate for inclusion in the mission statement; and

(2) a long range state plan, based on Best Practices for Tobacco Control Programs as published by the Centers for Disease Control and Prevention, for:

(A) the provision of services by the executive board, public or private entities, and individuals to implement the executive board's mission statement; and

(B) the coordination of state efforts to reduce usage of tobacco and tobacco products.

The executive board shall update the mission statement and long range state plan as necessary to carry out the purposes of this chapter.

(b) The long range state plan described in subsection (a) must:

(1) cover a period of at least five (5) years;

(2) include base line data concerning tobacco usage;

(3) set forth specific goals for prevention and reduction of tobacco usage in Indiana; and

(4) be made available to the governor, the general assembly, and any other appropriate state or federal agency.

**Sec. 12. A public or private entity or an individual may submit an application to the executive board for a grant from the fund. Each application must be in writing and contain the following information:**

(1) A clear objective to be achieved with the grant.

(2) A plan for implementation of the specific program.

(3) A statement of the manner in which the proposed program will further the goals of the executive board's

mission statement and long range state plan.

(4) The amount of the grant requested.

(5) An evaluation and assessment component to determine the program's performance.

(6) Any other information required by the executive board.

The executive board may adopt written guidelines to establish procedures, forms, additional evaluation criteria, and application deadlines.

Sec. 13. The expenditure of state funds (other than a grant awarded under this chapter) for a program concerning prevention or reduction of tobacco usage that is operated by a state agency or a public or private entity is subject to the approval of the executive board. The state agency or public or private entity shall submit a description of the proposed expenditure to the executive board for the executive board's review and approval. The description submitted under this section must include the following:

(1) The objective to be achieved through the expenditure.

(2) The plan for implementation of the expenditure.

(3) The extent to which the expenditure will supplement or duplicate existing expenditures of other state agencies, public or private entities, or the executive board.

Sec. 14. The executive board shall prepare an annual financial report and an annual report concerning the executive board's activities under this chapter and promptly transmit the annual reports to the governor and the legislative council. The executive board shall make the annual reports available to the public upon request.

Sec. 15. The funds, accounts, management, and operations of the executive board are subject to annual audit by the state board of accounts.

Sec. 16. (a) The Indiana tobacco use prevention and cessation advisory board is established. The board consists of:

(1) the executive director employed under section 6 of this chapter, who shall serve as the chairperson of the advisory board; and

(2) other members appointed by the governor who have knowledge, skill, and experience in smoking reduction and cessation programs, health care services, or preventive health care measures.

(b) The advisory committee shall meet at least quarterly and at the call of the chairperson.

(c) The advisory committee shall, as considered necessary by the advisory committee or as requested by the executive board, make recommendations to the executive committee concerning:

(1) the development and implementation of the mission statement and long range state plan under section 11 of this chapter;

(2) the criteria to be used for the evaluation of grant applications under this chapter;

(3) the coordination of public and private efforts concerning reduction and prevention of tobacco usage; and



(4) any other matters for which the executive board requests recommendations from the advisory committee.

(d) Members of the advisory committee are not entitled to a salary per diem or reimbursement of expenses for service on the advisory committee.

(e) The advisory committee may establish subcommittees as necessary to carry out its duties under this section.

SECTION 3. IC 4-12-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2000]:

**Chapter 5. Indiana Health Care Trust Fund**

**Sec. 1.** As used in this chapter, "fund" refers to the Indiana health care trust fund established by section 3 of this chapter.

**Sec. 2.** As used in this chapter, "master settlement agreement" has the meaning set forth in IC 24-3-3-6.

**Sec. 3. (a)** The Indiana health care trust fund is established for the purpose of promoting the health of the citizens of Indiana. The fund consists of:

- (1) amounts, if any, that another statute requires to be distributed to the fund from the Indiana tobacco master settlement agreement fund;
- (2) appropriations to the fund from other sources;
- (3) grants, gifts, and donations intended for deposit in the fund; and
- (4) interest that accrues from money in the fund.

**(b)** The fund shall be administered by the budget agency. Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees retirement fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the management of the fund and may pay the state expenses incurred under those contracts. Money in the fund at the end of the state fiscal year does not revert to the state general fund.

**Sec. 4.** Subject to appropriation by the general assembly, review by the budget committee, and approval by the budget agency, the treasurer of state shall distribute money from the fund to public or private entities or individuals for the implementation of programs concerning one (1) or more of the following purposes:

- (1) The children's health insurance program established under IC 12-17.6.
- (2) Cancer detection tests and cancer education programs.
- (3) Heart disease and stroke education programs.
- (4) Assisting community health centers in providing:
  - (A) vaccinations against communicable diseases, with an emphasis on service to youth and senior citizens;
  - (B) health care services and preventive measures that address the special health care needs of minorities (as defined in IC 16-46-6-2); and
  - (C) health care services and preventive measures in

- 1 rural areas.
- 2 (5) Promoting health and wellness activities.
- 3 (6) Encouraging the prevention of disease, particularly
- 4 tobacco related diseases.
- 5 (7) Addressing the special health care needs of those who
- 6 suffer most from tobacco related diseases, including end of
- 7 life and long term care alternatives.
- 8 (8) Addressing minority health disparities.
- 9 (9) Addressing the impact of tobacco related diseases,
- 10 particularly on minorities and females.
- 11 (10) Promoting community based health care, particularly in
- 12 areas with a high percentage of underserved citizens,
- 13 including individuals with disabilities, or with a shortage of
- 14 health care professionals.
- 15 (11) Enhancing local health department services.
- 16 (12) Expanding community based minority health
- 17 infrastructure.
- 18 (13) Other purposes recommended by the Indiana health
- 19 care trust fund advisory board established by section 5 of
- 20 this chapter.
- 21 **Sec. 5. (a) The Indiana health care trust fund advisory board**
- 22 **is established. The advisory board shall meet at least quarterly and**
- 23 **at the call of the chairperson to make recommendations to the**
- 24 **governor, the budget agency, and the general assembly concerning**
- 25 **the priorities for appropriation and distribution of money from the**
- 26 **fund.**
- 27 **(b) The advisory board consists of the following:**
- 28 **(1) The following three (3) ex officio members:**
- 29 **(A) The director of the budget agency or the director's**
- 30 **designee.**
- 31 **(B) The commissioner of the state department of health**
- 32 **or the commissioner's designee.**
- 33 **(C) The secretary of family and social services or the**
- 34 **secretary's designee.**
- 35 **(2) Two (2) members of the senate, who may not be members**
- 36 **of the same political party, appointed by the president pro**
- 37 **tempore of the senate.**
- 38 **(3) Two (2) members of the house of representatives, who**
- 39 **may not be members of the same political party, appointed**
- 40 **by the speaker of the house.**
- 41 **(4) The following appointees by the governor who represent**
- 42 **the following organizations or interests:**
- 43 **(A) The Indiana Dental Association.**
- 44 **(B) The Indiana Hospital and Health Association.**
- 45 **(C) The Indiana Minority Health Coalition.**
- 46 **(D) The Indiana Chapter of the American Academy of**
- 47 **Pediatrics.**
- 48 **(E) The Indiana State Medical Association.**
- 49 **(F) The Indiana State Nurses Association.**
- 50 **(G) The Indiana Health Care Association.**
- 51 **(H) A local health officer or a rural health organization.**

1 (I) A primary health care organization.

2 (J) A senior citizens organization.

3 (K) The Indiana Chapter of the National Medical  
4 Association.

5 (L) A consumer or representative of an end of life care  
6 organization, an alternative to long term care services,  
7 or a disability organization.

8 (M) A psychiatrist licensed under IC 25-22.5 or a  
9 psychologist licensed under IC 25-33.

10 (c) The term of office of a legislative member of the advisory  
11 board is four (4) years. However, a legislative member of the  
12 advisory board ceases to be a member of the advisory board if the  
13 member:

14 (1) is no longer a member of the chamber from which the  
15 member was appointed; or

16 (2) is removed from the advisory board under subsection (d).

17 (d) A legislative member of the advisory board may be  
18 removed at any time by the appointing authority who appointed  
19 the legislative member.

20 (e) The term of office of a member of the advisory board  
21 appointed under subsection (b)(4) is four (4) years. However, these  
22 members serve at the pleasure of the governor and may be  
23 removed for any reason.

24 (f) If a vacancy exists on the advisory board with respect to a  
25 legislative member or the members appointed under subsection  
26 (b)(4), the appointing authority who appointed the former member  
27 whose position has become vacant shall appoint an individual to fill  
28 the vacancy for the balance of the unexpired term.

29 (g) The governor shall appoint a member of the advisory  
30 committee to serve as chairperson.

31 (h) Eleven (11) members of the advisory board constitute a  
32 quorum for the transaction of business at a meeting of the advisory  
33 board. The affirmative vote of at least eleven (11) members of the  
34 advisory board is necessary for the advisory board to take action.

35 (i) Each member of the advisory board who is not a state  
36 employee is not entitled to the minimum salary per diem provided  
37 by IC 4-10-11-2.1(b). The member is, however, entitled to  
38 reimbursement for traveling expenses as provided under  
39 IC 4-13-1-4 and other expenses actually incurred in connection  
40 with the member's duties as provided in the state policies and  
41 procedures established by the Indiana department of  
42 administration and approved by the budget agency.

43 (j) Each member of the advisory board who is a state employee  
44 but who is not a member of the general assembly is entitled to  
45 reimbursement for traveling expenses as provided under  
46 IC 4-13-1-4 and other expenses actually incurred in connection  
47 with the member's duties as provided in the state policies and  
48 procedures established by the Indiana department of  
49 administration and approved by the budget agency.

50 (k) Each member of the advisory board who is a member of  
51 the general assembly is entitled to receive the same per diem,

mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

(l) Payments authorized for members of the advisory board under subsections (i) through (k) are payable from the Indiana tobacco master settlement agreement fund.

(m) The budget agency shall serve as the staff to the advisory committee.

**Sec. 6.** A public or private entity or an individual may submit an application to the board for a grant from the fund. Each application must be in writing and contain the following information:

(1) A clear objective to be achieved with the grant.

(2) A plan for implementation of the specific program.

(3) A statement of the manner in which the proposed program will further the goals of the Indiana tobacco use prevention and cessation board's mission statement and long range state plan under IC 4-12-4.

(4) The amount of the grant requested.

(5) An evaluation and assessment component to determine the program's performance.

(6) Any other information required by the advisory board.

The advisory board may adopt written guidelines to establish procedures, forms, additional evaluation criteria, and application deadlines.

**Sec. 7.** Appropriations and distributions from the fund under this chapter are in addition to and not in place of other appropriations or distributions made for the same purpose.

SECTION 4. IC 4-12-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

#### **Chapter 6. Biomedical Technology and Basic Research Trust Fund**

**Sec. 1.** As used in this chapter, "fund" refers to the biomedical technology and basic research trust fund established by section 3 of this chapter.

**Sec. 2.** As used in this chapter, "master settlement agreement" has the meaning set forth in IC 24-3-3-6.

**Sec. 3.** (a) The biomedical technology and basic research trust fund is established for the purpose of making distributions to the Indiana twenty-first century research and technology fund established by IC 4-4-5.1. The fund consists of:

(1) amounts, if any, that another statute requires to be distributed to the fund from the Indiana tobacco master settlement agreement fund;

(2) grants, gifts, and donations intended for deposit in the fund; and

(3) interest that accrues from money in the fund.

(b) The fund shall be administered by the budget agency.

Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees retirement fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the management of the fund and may pay the state expenses incurred under those contracts. Money in the fund at the end of the state fiscal year does not revert to the state general fund.

Sec. 4. Subject to appropriation by the general assembly, review by the budget committee, and approval by the budget agency, the treasurer of state shall distribute money from the fund to public and private entities to support biomedical technology and basic research initiatives, giving priority to initiatives that address tobacco related illnesses and that leverage matching dollars from federal or private sources.

Sec. 5. Appropriations and distributions from the fund under this chapter are in addition to and not in place of other appropriations or distributions made for the same purpose.

SECTION 5. IC 4-12-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

**Chapter 7. Indiana Local Health Department Trust Fund**

Sec. 1. As used in this chapter, "fund" refers to the Indiana local health department trust fund established by section 4 of this chapter.

Sec. 2. As used in this chapter, "local board of health" means the board of a:

- (1) county health department established under IC 16-20-2;
- (2) multiple county health department established under IC 16-20-3;
- (3) city health department established under IC 16-20-4; or
- (4) health and hospital corporation established under IC 16-22-8.

Sec. 3. As used in this chapter, "master settlement agreement" has the meaning set forth in IC 24-3-3-6.

Sec. 4. (a) The Indiana local health department trust fund is established for the purpose of making distributions to each county to provide funding for services provided by local boards of health in that county. The fund consists of:

- (1) money required to be distributed to the fund under subsection (b);
- (2) additional amounts, if any, that another statute requires to be distributed to the fund from the Indiana tobacco master settlement agreement fund;
- (3) appropriations to the fund from other sources;
- (4) grants, gifts, and donations intended for deposit in the fund; and
- (5) interest that accrues from money in the fund.

(b) Three million dollars (\$3,000,000) of the money received by the state under the master settlement agreement during each

1 calendar year beginning on or after January 1, 2001, shall be  
 2 distributed to the fund from the Indiana tobacco master settlement  
 3 agreement fund.

4 (c) The fund shall be administered by the budget agency.  
 5 Notwithstanding IC 5-13, the treasurer of state shall invest the  
 6 money in the fund not currently needed to meet the obligations of  
 7 the fund in the same manner as money is invested by the public  
 8 employees retirement fund under IC 5-10.3-5. The treasurer of  
 9 state may contract with investment management professionals,  
 10 investment advisors, and legal counsel to assist in the management  
 11 of the fund and may pay the state expenses incurred under those  
 12 contracts. Money in the fund at the end of the state fiscal year does  
 13 not revert to the state general fund.

14 Sec. 5. (a) Subject to subsection (b) and subject to review by  
 15 the budget committee and approval by the budget agency, on July  
 16 1 of each year the treasurer of state shall distribute money from  
 17 the fund to each county in the amount determined under STEP  
 18 FOUR of the following formula:

19 STEP ONE: Determine the amount of money, if any,  
 20 available for distribution from the fund.

21 STEP TWO: Subtract nine hundred twenty thousand dollars  
 22 (\$920,000) from the amount determined under STEP ONE.

23 STEP THREE: Multiply the STEP TWO remainder by a  
 24 fraction. The numerator of the fraction is the population of  
 25 the county. The denominator of the fraction is the population  
 26 of the state.

27 STEP FOUR: Add ten thousand dollars (\$10,000) to the  
 28 STEP THREE product.

29 (b) If less than nine hundred twenty thousand dollars  
 30 (\$920,000) is available for distribution from the fund on July 1 of  
 31 any year, the amount of the distribution from the fund to each  
 32 county is determined under STEP TWO of the following formula.

33 STEP ONE: Determine the amount of money, if any,  
 34 available for distribution from the fund.

35 STEP TWO: Multiply the STEP ONE amount by a fraction.  
 36 The numerator of the fraction is the population of the  
 37 county. The denominator of the fraction is the population of  
 38 the state.

39 Sec. 6. If only one (1) local board of health exists in a county,  
 40 the county fiscal body shall appropriate all distributions received  
 41 by the county under this chapter to that local board of health. If  
 42 more than one (1) local board of health exists in a county, the  
 43 county fiscal body shall appropriate all distributions received by  
 44 the county under this chapter to those local boards of health in  
 45 amounts determined by the county fiscal body.

46 Sec. 7. In using money distributed under this chapter, a local  
 47 board of health shall give priority to:

- 48 (1) programs that share common goals with the mission
- 49 statement and long range state plan established by the
- 50 Indiana tobacco use prevention and cessation board;
- 51 (2) preventive health measures; and

(3) support for community health centers that treat low income persons and senior citizens.

**Sec. 8. Appropriations and distributions from the fund under this chapter are in addition to and not in place of other appropriations or distributions made for the same purpose.**

**Sec. 9. Money in the fund is annually appropriated for the purposes described in this chapter.**

SECTION 6. IC 4-12-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 8. Indiana Prescription Drug Fund**

**Sec. 1. As used in this chapter, "fund" refers to the Indiana prescription drug fund established by section 2 of this chapter.**

**Sec. 2. (a) The Indiana prescription drug fund is established for the purpose of providing access to needed prescription drugs to ensure the health and welfare of Indiana's low-income senior citizens. The fund consists of:**

- (1) amounts to be distributed to the fund from the Indiana tobacco master settlement agreement fund;
- (2) appropriations to the fund from other sources;
- (3) grants, gifts, and donations intended for deposit in the fund; and
- (4) interest that accrues from money in the fund.

**(b) The fund shall be administered by the budget agency. Expenses for administration and benefits under the Indiana prescription drug program established under IC 12-10-16 shall be paid from the fund. Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees retirement fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the management of the fund and may pay the state expenses incurred under those contracts. Money in the fund at the end of the state fiscal year does not revert to the state general fund.**

**Sec. 3. Appropriations and distributions from the fund under this chapter are in addition to and not in place of other appropriations or distributions made for the same purpose.**

SECTION 7. IC 4-12-9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

**Chapter 9. Tobacco Farmers and Rural Community Impact Fund**

**Sec. 1. As used in this chapter, "fund" refers to the tobacco farmers and rural community impact fund established by section 2 of this chapter.**

**Sec. 2. (a) The tobacco farmers and rural community impact fund is established. The fund shall be administered by the commissioner of agriculture and the department of commerce. The fund consists of:**

- (1) amounts, if any, that another statute requires to be

distributed to the fund from the Indiana tobacco master settlement agreement fund;

(2) appropriations to the fund from other sources;

(3) grants, gifts, and donations intended for deposit in the fund; and

(4) interest that accrues from money in the fund.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees retirement fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the management of the fund and may pay the state expenses incurred under those contracts.

(d) Money in the fund at the end of the state fiscal year does not revert to the state general fund.

Sec. 3. (a) Subject to subsection (b), money in the fund shall be used for the following purposes:

(1) To assist farmers who produced tobacco to successfully transition to alternative, economically viable commodities.

(2) To preserve and sustain Indiana family farms and farmland.

(3) To develop new agricultural enterprises in areas that were used for tobacco production, including facilities for research and development, new market opportunities, educational programs, and leadership developmental programs.

(4) Assistance to rural communities that suffer a negative economic impact from the loss of tobacco production, including assistance to the Indiana Rural Development Council.

(b) Expenditures from the fund are subject to appropriation by the general assembly, review by the budget committee, and approval by the budget agency. In addition, the commissioner of agriculture shall approve expenditures for projects under subsection (a)(1) through (a)(3), and the department of commerce shall approve expenditures for projects under subsection (a)(4).

SECTION 8. IC 12-10-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2000]:

#### **Chapter 16. Indiana Prescription Drug Program**

Sec. 1. "Fund" refers to the Indiana prescription drug fund established under IC 4-12-8.

Sec. 2. "Program" refers to the Indiana prescription drug program established under section 3 of this chapter.

Sec. 3. The office of the secretary shall administer a program implementing the recommendations of the prescription drug advisory committee to provide access to needed pharmaceuticals to ensure the health and welfare of Indiana's low-income senior



1 citizens.

2 **Sec. 4. The office of the secretary shall report to the budget**  
 3 **committee on the recommendations made by the prescription drug**  
 4 **advisory committee.**

5 **Sec. 5. (a) The office may adopt rules under IC 4-22-2 to**  
 6 **implement the program.**

7 **(b) The office may adopt emergency rules under**  
 8 **IC 4-22-2-37.1 to implement the program on an emergency basis.**

9 **Sec. 6. The administrative expenses and benefit costs of the**  
 10 **program shall be paid from the fund.**

11 **SECTION 9. IC 24-3-2-10 IS AMENDED TO READ AS**  
 12 **FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) In**  
 13 **establishing the cost of cigarettes to the retailer or distributor, the**  
 14 **invoice cost of said cigarettes purchased at a forced, bankrupt, or**  
 15 **close-out sale, or other sale outside of the ordinary channels of trade,**  
 16 **may not be used as a basis for justifying a price lower than one based**  
 17 **upon the replacement cost of the cigarettes to the retailer or distributor,**  
 18 **within thirty (30) days prior to the date of sale, in the quantity last**  
 19 **purchased, through the ordinary channels of trade.**

20 **(b) Any cigarettes that are imported or reimported into the**  
 21 **United States for sale or distribution under a trade name, trade**  
 22 **dress, or trademark that is the same as or confusingly similar to a**  
 23 **trade name, trade dress, or trademark used for cigarettes**  
 24 **manufactured in the United States for sale or distribution in the**  
 25 **United States are presumed to be purchased outside the ordinary**  
 26 **channels of trade.**

27 **SECTION 10. IC 24-3-4 IS ADDED TO THE INDIANA CODE**  
 28 **AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE**  
 29 **UPON PASSAGE]:**

30 **Chapter 4. Cigarettes Produced for Export; Imported**  
 31 **Cigarettes**

32 **Sec. 1. This chapter does not apply to cigarettes sold or**  
 33 **intended to be sold as duty free merchandise by a duty free sales**  
 34 **enterprise that complies with federal requirements, including the**  
 35 **requirements under 19 U.S.C. 1555(b). However, this chapter**  
 36 **applies to cigarettes that are brought back into the United States**  
 37 **that have not been assessed a federal tax or federal duty.**

38 **Sec. 2. As used in this chapter, "cigarette" has the meaning set**  
 39 **forth in IC 24-3-2-2(a).**

40 **Sec. 3. As used in this chapter, "department" refers to the**  
 41 **department of state revenue.**

42 **Sec. 4. As used in this chapter, "importer" means any of the**  
 43 **following:**

44 **(1) A person in the United States to whom nontaxpaid**  
 45 **tobacco products, cigarette papers, or cigarette tubes**  
 46 **manufactured in a foreign country, Puerto Rico, the Virgin**  
 47 **Islands, or a possession of the United States are shipped or**  
 48 **consigned.**

49 **(2) A person who removes cigars or cigarettes for sale or**  
 50 **consumption in the United States from a customs bonded**  
 51 **manufacturing warehouse.**

1           (3) A person who smuggles or unlawfully brings tobacco  
2           products, cigarette papers, or cigarette tubes into the United  
3           States.

4           Sec. 5. As used in this chapter, "law enforcement officer" has  
5           the meaning set forth in IC 35-41-1-17.

6           Sec. 6. As used in this chapter, "manufacturer" means a  
7           person who manufactures a product made from tobacco that is  
8           made for smoking or chewing, including snuff. However, the term  
9           does not include the following:

10          (1) A person who produces a product made from tobacco  
11          that is made for smoking or chewing, including snuff, solely  
12          for the person's own personal consumption or use.

13          (2) A proprietor of a customs bonded manufacturing  
14          warehouse with respect to the operation of the warehouse.

15          Sec. 7. As used in this chapter, "person" has the meaning set  
16          forth in IC 24-3-2-2(b).

17          Sec. 8. As of October 1, 2000, a person may not sell, distribute,  
18          or transport into Indiana any of the following cigarettes:

19          (1) Cigarettes that have been marked for sale, distribution,  
20          or use outside the United States, including labels stating "For  
21          Export Only", "U.S. Tax-Exempt", and "For Use Outside  
22          U.S.".

23          (2) Cigarettes that do not comply with the federal Cigarette  
24          Labeling and Advertising Act (15 U.S.C. 1333) or with other  
25          federal requirements regarding health warnings and other  
26          information on cigarette packages manufactured, packaged,  
27          or imported for sale, distribution, or use in the United States.

28          (3) Cigarettes that do not comply with federal trademark  
29          and copyright laws.

30          (4) Cigarettes that violate federal requirements on  
31          importation of previously exported tobacco products,  
32          including 26 U.S.C. 5754.

33          (5) Cigarettes that the person knows or has reason to know  
34          that the manufacturer did not intend to be sold, distributed,  
35          or used in the United States.

36          (6) Cigarettes that have not had the list of the cigarette's  
37          added ingredients submitted to the Secretary of the  
38          Department of Health and Human Services under 15 U.S.C.  
39          1335a.

40          (7) Cigarettes that have had the package altered before the  
41          cigarettes are sold or distributed to the consumer that  
42          remove, conceal, or obscure any of the following:

43                (A) A marking that indicates the cigarettes are intended  
44                to be sold, distributed, or used outside the United States.

45                (B) A health warning or other information required  
46                under 15 U.S.C. 1333.

47          Sec. 9. A person may not affix a stamp (as defined by  
48          IC 6-7-1-9) on a package of cigarettes described in section 8 of this  
49          chapter.

50          Sec. 10. (a) A person who, for the purpose of selling or  
51          distributing the cigarettes in Indiana, imports cigarettes into

1 Indiana that were manufactured outside the United States, shall  
 2 file a monthly report with the department and keep and maintain  
 3 the records required under IC 6-7-1-19 and IC 6-7-1-19.5.

4 (b) The report required under subsection (a) must be signed by  
 5 the person who imports the cigarettes, under penalties of perjury,  
 6 and must contain the following information concerning cigarettes  
 7 that the person imported during the preceding month:

8 (1) A copy of each of the following:

9 (A) The permit issued under 26 U.S.C. 5713 that allows  
 10 the person to import the cigarettes into the United  
 11 States.

12 (B) The United States Customs Service form concerning  
 13 the cigarettes that contains the internal revenue tax  
 14 information required by the federal Bureau of Alcohol,  
 15 Tobacco, and Firearms.

16 (2) A statement that includes the following information:

17 (A) The brand and brand styles of the cigarettes  
 18 imported.

19 (B) The quantity of each brand style of the cigarettes  
 20 imported.

21 (C) The name and address of each person to whom the  
 22 cigarettes have been shipped.

23 (3) A statement signed by an officer of the manufacturer or  
 24 importer, under the penalties for perjury, that states  
 25 whether the manufacturer is a participant in the escrow fund  
 26 under IC 24-3-3-12 and certifies that the manufacturer or  
 27 importer has complied with the following:

28 (A) The federal cigarette package health warning  
 29 requirements (15 U.S.C. 1333) and the federal ingredient  
 30 reporting requirements (15 U.S.C. 1335a).

31 (B) The qualified escrow fund for tobacco product  
 32 manufacturers requirements under IC 24-3-3.

33 Sec. 11. The department may do the following:

34 (1) Adopt rules under IC 4-22-2 to implement this chapter.

35 (2) Assess tax due, penalties, and interest on cigarettes in  
 36 violation of this chapter.

37 (3) Revoke or suspend the registration certificate issued  
 38 under IC 6-7-1-16 of a person who violates this chapter.

39 Sec. 12. (a) If the department or a law enforcement officer  
 40 discovers cigarettes that are in violation of section 8 or 9 of this  
 41 chapter, the department or a law enforcement officer may seize  
 42 and take possession of the cigarettes together with any vending  
 43 machine or receptacle in which the cigarettes are held for sale. The  
 44 seized cigarettes, vending machine, or receptacle, not including  
 45 money contained in the vending machine or receptacle, shall be  
 46 forfeited to the state. The department or law enforcement agency  
 47 shall, within a reasonable time after the seizure, destroy the  
 48 confiscated cigarettes and vending machine or receptacle.

49 (b) The confiscation, destruction, sale, or redemption of  
 50 cigarettes does not relieve a person of any penalties imposed for  
 51 violation of this chapter.

(c) When the department has reason to believe that any cigarettes are being kept, sold, offered for sale, or given away in violation of this chapter, an officer of the department or a law enforcement officer may make an affidavit for a search warrant under IC 35-33-5. If the judge issues a search warrant under IC 35-33-1, a law enforcement officer or an authorized agent of the department may search any place or vehicle designated in the affidavit and search warrant and seize any cigarettes.

Sec. 13. (a) This chapter may be enforced by the department or a law enforcement officer.

(b) Upon referral of a violation of this chapter by the department or a law enforcement officer, the prosecuting attorney or the attorney general shall prosecute the person who violates this chapter.

Sec. 14. In addition to any other remedy, any person may bring an action for appropriate injunctive or equitable relief for a violation of this chapter that caused actual damages to the person. The person who brings the action may recover actual damages, interest on the damages from the date the complaint was filed, costs, and reasonable attorney's fees. If the court finds that the violation was flagrant, the court may increase the recovery to an amount not exceeding three (3) times the amount of actual damages.

Sec. 15. A person who knowingly or intentionally sells, distributes, or transports into Indiana cigarettes in violation of section 8 of this chapter commits a Class A misdemeanor.

Sec. 16. A person who knowingly or intentionally sells, or distributes cigarettes that bear Indiana tax stamps affixed in violation of this chapter commits a Class A misdemeanor.

Sec. 17. A person who:

(1) knowingly sells, distributes, or transports more than twelve thousand (12,000) cigarettes in violation of section 8 or 9 of this chapter; and

(2) has previously been convicted of an offense under section 8 or 9 of this chapter;

commits a Class D felony.

SECTION 11. IC 24-5-0.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The following acts or representations as to the subject matter of a consumer transaction, made either orally or in writing by a supplier, are deceptive acts:

(1) That such subject of a consumer transaction has sponsorship, approval, performance, characteristics, accessories, uses, or benefits it does not have which the supplier knows or should reasonably know it does not have.

(2) That such subject of a consumer transaction is of a particular standard, quality, grade, style, or model, if it is not and if the supplier knows or should reasonably know that it is not.

(3) That such subject of a consumer transaction is new or unused, if it is not and if the supplier knows or should reasonably know that it is not.

- 1 (4) That such subject of a consumer transaction will be supplied
- 2 to the public in greater quantity than the supplier intends or
- 3 reasonably expects.
- 4 (5) That replacement or repair constituting the subject of a
- 5 consumer transaction is needed, if it is not and if the supplier
- 6 knows or should reasonably know that it is not.
- 7 (6) That a specific price advantage exists as to such subject of a
- 8 consumer transaction, if it does not and if the supplier knows or
- 9 should reasonably know that it does not.
- 10 (7) That the supplier has a sponsorship, approval, or affiliation
- 11 in such consumer transaction he does not have, and which the
- 12 supplier knows or should reasonably know that he does not have.
- 13 (8) That such consumer transaction involves or does not involve
- 14 a warranty, a disclaimer of warranties, or other rights, remedies,
- 15 or obligations, if the representation is false and if the supplier
- 16 knows or should reasonably know that the representation is false.
- 17 (9) That the consumer will receive a rebate, discount, or other
- 18 benefit as an inducement for entering into a sale or lease in
- 19 return for giving the supplier the names of prospective
- 20 consumers or otherwise helping the supplier to enter into other
- 21 consumer transactions, if earning the benefit, rebate, or discount
- 22 is contingent upon the occurrence of an event subsequent to the
- 23 time the consumer agrees to the purchase or lease.
- 24 (10) That the supplier is able to deliver or complete the subject
- 25 of the consumer transaction within a stated period of time, when
- 26 the supplier knows or should reasonably know he could not. If no
- 27 time period has been stated by the supplier, there is a
- 28 presumption that the supplier has represented that he will deliver
- 29 or complete the subject of the consumer transaction within a
- 30 reasonable time, according to the course of dealing or the usage
- 31 of the trade.
- 32 (11) That the consumer will be able to purchase the subject of
- 33 the consumer transaction as advertised by the supplier, if the
- 34 supplier does not intend to sell it.
- 35 (12) That the replacement or repair constituting the subject of a
- 36 consumer transaction can be made by the supplier for the
- 37 estimate the supplier gives a customer for the replacement or
- 38 repair, if the specified work is completed and:
  - 39 (A) the cost exceeds the estimate by an amount equal to or
  - 40 greater than ten percent (10%) of the estimate;
  - 41 (B) the supplier did not obtain written permission from the
  - 42 customer to authorize the supplier to complete the work
  - 43 even if the cost would exceed the amounts specified in
  - 44 clause (A);
  - 45 (C) the total cost for services and parts for a single
  - 46 transaction is more than seven hundred fifty dollars (\$750);
  - 47 and
  - 48 (D) the supplier knew or reasonably should have known that
  - 49 the cost would exceed the estimate in the amounts specified
  - 50 in clause (A).
- 51 (13) That the replacement or repair constituting the subject of a

consumer transaction is needed, and that the supplier disposes of the part repaired or replaced earlier than seventy-two (72) hours after both:

(A) the customer has been notified that the work has been completed; and

(B) the part repaired or replaced has been made available for examination upon the request of the customer.

(14) Engaging in the replacement or repair of the subject of a consumer transaction if the consumer has not authorized the replacement or repair, and if the supplier knows or should reasonably know that it is not authorized.

(15) The act of misrepresenting the geographic location of the supplier by listing a fictitious business name or an assumed business name (as described in IC 23-15-1) in a local telephone directory if:

(A) the name misrepresents the supplier's geographic location;

(B) the listing fails to identify the locality and state of the supplier's business;

(C) calls to the local telephone number are routinely forwarded or otherwise transferred to a supplier's business location that is outside the calling area covered by the local telephone directory; and

(D) the supplier's business location is located in a county that is not contiguous to a county in the calling area covered by the local telephone directory.

(16) The act of listing a fictitious business name or assumed business name (as described in IC 23-15-1) in a directory assistance database if:

(A) the name misrepresents the supplier's geographic location;

(B) calls to the local telephone number are routinely forwarded or otherwise transferred to a supplier's business location that is outside the local calling area; and

(C) the supplier's business location is located in a county that is not contiguous to a county in the local calling area.

**(17) That the supplier violated IC 24-3-4 concerning cigarettes for import or export.**

(b) Any representations on or within a product or its packaging or in advertising or promotional materials which would constitute a deceptive act shall be the deceptive act both of the supplier who places such representation thereon or therein, or who authored such materials, and such other suppliers who shall state orally or in writing that such representation is true if such other supplier shall know or have reason to know that such representation was false.

(c) If a supplier shows by a preponderance of the evidence that an act resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error, such act shall not be deceptive within the meaning of this chapter.

(d) It shall be a defense to any action brought under this chapter that the representation constituting an alleged deceptive act was one

made in good faith by the supplier without knowledge of its falsity and in reliance upon the oral or written representations of the manufacturer, the person from whom the supplier acquired the product, any testing organization, or any other person provided that the source thereof is disclosed to the consumer.

(e) For purposes of subsection (a)(12), a supplier that provides estimates before performing repair or replacement work for a customer shall give the customer a written estimate itemizing as closely as possible the price for labor and parts necessary for the specific job before commencing the work.

(f) For purposes of subsection (a)(15), a telephone company or other provider of a telephone directory or directory assistance service or its officer or agent is immune from liability for publishing the listing of a fictitious business name or assumed business name of a supplier in its directory or directory assistance database unless the telephone company or other provider of a telephone directory or directory assistance service is the same person as the supplier who has committed the deceptive act.

**SECTION 12. [EFFECTIVE JULY 1, 2000] (a) All money remaining in the tobacco settlement fund on June 30, 2000, shall be transferred to the Indiana tobacco master settlement agreement fund established by IC 4-12-1-14.3, as amended by this act, on July 1, 2000.**

**(b) Notwithstanding P.L.273-1999 or IC 4-12-1-14.3, as amended by this act, the appropriations made by P.L.273-1999, SECTION 8, for the state fiscal year beginning July 1, 2000, for CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP) ASSISTANCE and CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP) ADMINISTRATION:**

**(1) are payable from the Indiana tobacco master settlement agreement fund established by IC 4-12-1-14.3, as amended by this act; and**

**(2) are not subject to the limitation on expenditures from the fund under IC 4-12-1-14.3(d), as amended by this act.**

**(c) The following amounts are appropriated from the Indiana tobacco master settlement agreement fund established by IC 4-12-1-14.3, as amended by this act, for the period beginning July 1, 2000, and ending June 30, 2001:**

**(1) Thirty-five million dollars (\$35,000,000) to be transferred to the Indiana tobacco use prevention and cessation fund for tobacco education, prevention, and use control. However, two million five hundred thousand dollars (\$2,500,000) of this amount must be used to fund minority organizations, agencies, and businesses to implement minority prevention and intervention programs.**

**(2) Twenty million dollars (\$20,000,000) to be transferred to the Indiana prescription drug fund for pharmaceutical assistance for low income senior citizens.**

**(3) Fifteen million dollars (\$15,000,000) to the state department of health for total operating expenses for either or both of the following purposes:**

(A) Community health centers.

(B) Primary health care centers for children.

(d) Ten million dollars (\$10,000,000) is appropriated from the Indiana tobacco master settlement agreement fund established by IC 4-12-1-14.3, as amended by this act, to the state department of health to cover capital costs for the period beginning July 1, 2000, and ending June 30, 2002, for community health centers.

(e) In addition to the money appropriated under IC 6-7-1-30.5 and under P.L.273-1999, SECTION 8, one million five hundred thousand dollars (\$1,500,000) shall be transferred from the Indiana tobacco master settlement agreement fund established by IC 4-12-1-14.3, as amended by this act, to the local health maintenance fund established by IC 16-46-10-1 and is appropriated for total operating expenses of the local health maintenance fund beginning July 1, 2000, and ending June 30, 2001. The appropriation made under this subsection shall be used to make supplemental grants, in addition to the grants provided under IC 16-46-10-2, under the following schedule to each local board of health whose application for funding is approved by the state board of health:

COUNTY POPULATION	AMOUNT OF GRANT
over - 499,999	\$ 36,000
100,000 - 499,999	24,000
50,000 - 99,999	20,000
under - 50,000	14,000

SECTION 13. [EFFECTIVE JULY 1, 2000] (a) The Indiana University School of Medicine shall submit proposed criteria and cost estimates to the Indiana health care trust fund advisory board concerning the establishment and funding of a research project to determine the causes and tendencies of nicotine addiction and withdrawal from nicotine addiction.

(b) The Indiana minority health coalition and Martin University shall submit proposed criteria and cost estimates to the Indiana health care trust fund advisory board concerning the establishment and funding of a minority epidemiology resource center.

(c) This SECTION expires July 1, 2003.

SECTION 14. [EFFECTIVE APRIL 1, 2000] (a) Notwithstanding IC 4-12-4-7, as added by this act, the initial terms of office of the eleven (11) members appointed by the governor to the board of directors of the Indiana tobacco use prevention and cessation board under IC 4-12-4-4(c)(2), as added by this act, are as follows:

(1) Three (3) members for a term of two (2) years.

(2) Four (4) members for a term of three (3) years.

(3) Four (4) members for a term of four (4) years.

(b) The initial terms begin April 1, 2000.

(c) This SECTION expires July 1, 2005.

SECTION 15. [EFFECTIVE UPON PASSAGE] (a) The Indiana prescription drug advisory committee is established to:

(1) study pharmacy benefit programs and proposals, including programs and proposals in other states; and

(2) make initial and ongoing recommendations to the



governor for programs that address the pharmaceutical costs of low-income senior citizens.

(b) The committee consists of eleven (11) members appointed by the governor and four (4) legislative members. The term of each member expires December 31, 2001. The members of the committee appointed by the governor are as follows:

- (1) A physician with a specialty in geriatrics.
- (2) A pharmacist.
- (3) A person with expertise in health plan administration.
- (4) A representative of an area agency on aging.
- (5) A consumer representative from a senior citizen advocacy organization.
- (6) A person with expertise in and knowledge of the federal Medicare program.
- (7) A health care economist.
- (8) A person representing a pharmaceutical research and manufacturing association.
- (9) Three (3) other members as appointed by the governor.

The four (4) legislative members shall serve as nonvoting members. The speaker of the house of representatives and the president pro tempore of the senate shall each appoint two (2) legislative members, who may not be from the same political party, to serve on the committee.

(c) The governor shall designate a member to serve as chairperson. A vacancy with respect to a member shall be filled in the same manner as the original appointment. Each member is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties. The expenses of the committee shall be paid from the Indiana pharmaceutical assistance fund created by IC 4-12-8, as added by this act. The office of the secretary of family and social services shall provide staff for the committee. The committee is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3. The advisory council is a governing body for purposes of IC 5-14-1.5.

(d) Not later than September 1, 2000, the board shall make program design recommendations to the governor and the family and social services administration concerning the following:

- (1) Eligibility criteria, including the desirability of incorporating an income factor based on the federal poverty level.
- (2) Benefit structure.
- (3) Cost-sharing requirements, including whether the program should include a requirement for copayments or premium payments.
- (4) Marketing and outreach strategies.
- (5) Administrative structure and delivery systems.
- (6) Evaluation.

(e) The recommendations shall address the following:

- (1) Cost-effectiveness of program design.
- (2) Coordination with existing pharmaceutical assistance programs.

- 1           **(3) Strategies to minimize crowd-out of private insurance.**
- 2           **(4) Reasonable balance between maximum eligibility levels**
- 3           **and maximum benefit levels.**
- 4           **(5) Feasibility of a health care subsidy program where the**
- 5           **amount of the subsidy is based on income.**
- 6           **(6) Advisability of entering into contracts with health**
- 7           **insurance companies to administer the program.**
- 8           **(f) The committee may not recommend the use of funds from the**
- 9           **Indiana pharmaceutical assistance fund for a state prescription**
- 10          **drug benefit for low-income senior citizens if there is a federal**
- 11          **statute or program providing a similar prescription drug benefit**
- 12          **for the benefit of low-income senior citizens.**
- 13          **(g) This SECTION expires December 31, 2001.**
- 14          **SECTION 16. An emergency is declared for this act."**
- 15          Delete pages 4 through 22.
- 16          Renumber all SECTIONS consecutively.
- (Reference is to ESB 108 as reprinted February 22, 2000.)

**Conference Committee Report**  
**on**  
**Engrossed Senate Bill 108**

**S**igned by:

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Senator Borst  
Chairperson

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Representative Brown C

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Senator Simpson

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Representative Murphy

**Senate Conferees**

**House Conferees**